UNITED NATIONS **S**

Security Council

PROVISIONAL

S/PV.3312
11 November 1993

ENGLISH

PROVISIONAL VERBATIM RECORD OF THE THREE THOUSAND THREE HUNDRED AND TWELFTH MEETING

Held at Headquarters, New York,
on Thursday, 11 November 1993, at 11.30 a.m.

President:	Mr. JESUS	(Cape Verde)
Members:	Brazil	Mr. SARDENBERG
	China	Mr. LI Zhaoxing
	Djibouti	Mr. OLHAYE
	France	Mr. MERIMEE
	Hungary	Mr. ERDÖS
	Japan	Mr. MARUYAMA
	Morocco	Mr. SNOUSSI
	New Zealand	Mr. KEATING
	Pakistan	Mr. MARKER
	Russian Federation	Mr. VORONTSOV
	Spain	Mr. YAÑEZ BARNUEVO
	United Kingdom of Great Britain and Northern Ireland	Sir David HANNAY
	United States of America	Mrs. ALBRIGHT
	Venezuela	Mr. TAYLHARDAT

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93-87159 (E)

The meeting was called to order at 12.10 p.m.

ADOPTION OF THE AGENDA

The agenda was adopted.

LETTERS DATED 20 AND 23 DECEMBER 1991, FROM FRANCE, THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE UNITED STATES OF AMERICA (S/23306, S/23307, S/23308, S/23309 and S/23317)

The PRESIDENT: As agreed in the Council's prior consultations, I should like to state, in connection with the agenda just adopted, that the current formulation overtakes the earlier two formulations under which this item has been discussed, namely, items 168 and 173 of the list of matters of which the Security Council is seized; that list is contained in document S/25070. Since those items have been subsumed under the present item, they will accordingly be deleted from the list of matters contained in document S/25070.

I should like to inform the Council that I have received letters from the representatives of Egypt, the Libyan Arab Jamahiriya and Sudan, in which they request to be invited to participate in the discussion of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite those representatives to participate in the discussion without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, Mr. Elhouderi (Libyan Arab Jamahiriya) took a place at the Council table; Mr. Elaraby (Egypt) and Mr. Yasin (Sudan) took the places reserved for them at the side of the Council Chamber.

The PRESIDENT: The Security Council will now resume its consideration of the item on its agenda.

The Security Council is meeting in accordance with the understanding reached in its prior consultations.

Members of the Council have before them document S/26701, which contains the text of a draft resolution submitted by France, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

I should like to draw the attention of the members of the Council to the following other documents: S/26304, letter dated 13 August 1993 from the representatives of France, the United Kingdom of Great Britain and Northern Ireland and the United States of America to the United Nations addressed to the Secretary-General; S/26500, S/26523, S/26604 and S/26629, letters dated 22 September and 1, 18 and 22 October 1993, respectively, from the Permanent Representative of the Libyan Arab Jamahiriya to the United Nations addressed to the Secretary-General.

The first speaker is the representative of the Libyan Arab Jamahiriya, on whom I now call.

Mr. ELHOUDERI (Libyan Arab Jamahiriya) (interpretation from Arabic): I congratulate you on your assumption of the presidency of the Security Council this month and commend the efforts made by your predecessor. I do hope that the Security Council will be able to really and truly discharge its functions in line with the purposes and principles of the United Nations

(Mr. Elhouderi, Libyan Arab Jamahiriya)

Charter, and to conduct itself in a manner that is compatible with the law and the public interest of the international community. I do hope that bias and special interests will not be given the upper hand and that the Council will steer clear of selectivity and double standard.

The Security Council meets today not to consider a matter that threatens international peace and security but to consider a draft resolution that seeks the intensification of the sanctions which have been imposed on the Libyan Arab Jamahiriya by the Council's resolution 748 (1992). Prior to this meeting, the Council had automatically renewed those sanctions four times over a period of 15 months. So, why intensify the sanctions now? The pretext which the three countries have repeated ad infinitum is the allegation that the Libyan Arab Jamahiriya has not complied with Security Council resolution 731 (1992). However, the truth of the matter is that the Libyan Arab Jamahiriya has fully responded to Security Council resolution 731 (1992). The only point that remains outstanding is the problem that arose from the demand by the United States of America and the United Kingdom that the two alleged suspects be extradited. This is a problem that remains unsolved because of a legal wrangle over which country has the competence in law to try the two persons accused of involvement in the bombing of Pan Am flight 103 over Lockerbie, Scotland.

Essentially, this is a question that is definitively settled by the provisions of the Montreal 1971 Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation. The Libyan Arab Jamahiriya, the United States and the United Kingdom are all parties to that Convention, which, from the start, stipulates jurisdiction regarding the trial of the accused to the Libyan Arab Jamahiriya. That was the view of the Libyan Arab

(Mr. Elhouderi, Libyan Arab Jamahiriya)

Jamahiriya from the very beginning. Acccrdingly, it acted within that competence as soon as it received the indictments issued by the three countries, which have been circulated as official documents of the General Assembly and the Security Council. Libya announced at the time that it would deal with the indictments constructively and, forthwith, referred them to the Libyan judicial authorities. A judge was appointed to investigate the matter and he started his preliminary investigation by placing the two accused under preventive custody. The United States and the United Kingdom were accordingly notified and were requested to cooperate with the Libyan judicial authorities either by allowing the Libyan judge access to the records of their investigations or by fixing a date for carrying out the necessary investigation. In order to create an atmosphere of trust, to ensure that the proper procedures be followed during the investigation and the trial and to underscore fairness and neutrality, Libya proposed to Mr. Vasiliy Safronchuck, the personal envoy of the Secretary-General, during his visit to Tripoli on 26 January 1992, that the two countries send their own judges, or that the Secretary-General call on judges from certain countries, as well as representatives from the League of Arab States, the Organization of African Unity and the Organization of the Islamic Conference, to observe the trial. However, the American and British authorities refused to cooperate with the Libyan authorities.

The intransigence of the two countries, their refusal to apply the provisions of the 1971 Montreal Convention and their insistence on the extradition of the two persons to either one of them hampered the proper procedure of the trial of the two accused. The two countries also refused to submit the case to arbitration, as the Convention stipulates for disputes arising over the

(Mr. Elhouderi, Libyan Arab Jamahiriya)

interpretation or application of its provisions. As a result, the Libyan Arab Jamahiriya took the question of the application of the Convention's rules to the International Court of Justice. The matter is still pending before the Court.

Notwithstanding my country's repair to the International Court of Justice and the natural need to await its verdict, we have spared no effort in seriously seeking a solution that would be in consonance with the provisions of the law. My country had proposed to request the International Court of Justice to ascertain the validity of the accusations levelled at the two Libyan nationals and suggested that they be surrendered to the office of the United Nations Development Programme (UNDP) in Tripoli for investigation. Libya also proposed that the Secretary-General form a legal committee composed of fair and neutral judges to investigate the facts of the case, make sure that the allegations against the accused were serious ones and conduct a comprehensive investigation.

(Mr. Elhouderi, Libyan Arab Jamahiriya)

Libya declared that if the Secretary-General concluded that the accusations were justified, the Libyan Arab Jamahiriya would not object to the extradition of the two accused, under the personal supervision of the Secretary-General, to a third party, on condition that they may not be re-extradited to any other party. All these proposals fell on deaf ears and were met by insistence on extraditing the two accused - without any legitimate justification, be it in law or in treaty provision - to either the United States of America or Scotland.

We did not extradite the two accused because that is against our laws. The laws of most countries, if not all countries, prohibit such extradition unless there is a treaty or convention regulating such matters between the countries concerned. There are no bilateral treaties between the Libyan Arab Jamahiriya and either the United States or the United Kingdom. There is, however, a multilateral convention that clearly and accurately regulates actions related to attacks against international civil aviation, namely the 1971 Montreal Convention. All of us are parties to that convention. Regrettably, the United States and the United Kingdom declined to comply with the provisions of the said convention and insisted, merely on the basis of their own personal wishes, on the extradition of the two accused to either one of the two countries. We wish to draw attention here to the gravity of involving the Security Council in this game whereby States are forced to surrender their own citizens to other States.

The pretext used by the two countries to circumvent the 1971 Montreal Convention is that they have no faith in Libya's ability to try its own citizens. This claim gives the impression that only their judicial systems are trustworthy, despite events and evidence which suggest the contrary. Suffice it to recall areas of

(Mr. Elhouderi, Libyan Arab Jamahiriya)

deficiency in the American judicial system which were revealed by the Rodney King trial in Los Angeles. Furthermore, a report issued by the Gallup Institute and published by a European newspaper reveals that 61 per cent of Britons do not think they could get a fair trial in Britain. A recent trial in Old Bailey, in Britain, also disclosed another aspect of the British judicial system when a judge suspended the trial of three detectives because of the amount and intensity of publicity surrounding the case, and because the media had portrayed the defendants as the perpetrators of the crimes for which they were being tried. This prompted the British newspaper *The Guardian* to ask on 12 October 1993, in an editorial entitled "Fair Trial, Fair Sense",

> "Why do the Libyan suspects in the Lockerbie incident fear trial in Scotland, although British ministers and officials confirm that they would receive a fair trial?"

The paper called on the ministers to look into the ruling of the Old Bailey judge and said that the two conditions related to the Old Bailey case apply to the two Libyans. Indeed the Libyans receive even more publicity than the Old Bailey defendants whenever the politicians and journalists rehash the Pan Am incident over Lockerbie. The paper went on to say that the Libyans have indeed compelling reasons to complain.

Moreover, the information gathered by the two countries should not be accepted at face value as irrefutable facts. The United States had previously claimed, on the strength of its own information gathering, that the Libyan Arab Jamahiriya was responsible for the Berlin nightclub incident. On the strength of that information, the United States sent its state-of-the-art planes, at night and carrying the most advanced weapons of destruction, to bomb the cities of Tripoli and Benghazi and the

(Mr. Elhouderi, Libyan Arab Jamahiriya)

home of the Leader, killing dozens of innocent people. A trial later proved that the Libyan Arab Jamahiriya had nothing to do with the incident and completely exonerated it. You may also recall that the General Assembly of the United Nations condemned that aggression in its resolution 41/38 (1986), which acknowledged the right of the families of the victims to receive compensation, something which the United States has thus far refused to do. This was an instance of blatant aggression in which military force was used and which jeopardized international peace and security. As such, the Security Council should have considered it. The Council failed to do so because the three States, sponsors of the draft resolution before you today, resorted to the power of veto.

Another example of the fallibility of the information gathered by the agencies of those countries can be found in United Nations General Assembly document (A/48/477) concerning the United States insistence on inspecting the Chinese ship "Yin He" in order to look for two chemicals used in the manufacture of chemical weapons. The document states that

> "The 'Yin He' incident is the sole making of the United States side as a result of its erroneous act based on its false intelligence." (A/48/477, annex I, para. 2)

China's insistence that the ship did not carry the two chemicals was to no avail. The United States insisted on inspecting the ship and China insisted that that should be done only in a neutral country. A careful inspection of all containers on the ship proved categorically that the two chemicals were not in the ship's cargo. Is it strange then, in light of the obvious legal nature of this issue, that the Libyan Arab Jamahiriya refuses to surrender the two suspects? And in view of the clear evidence and the definitive

(Mr. Elhouderi, Libyan Arab Jamahiriya)

facts, is it strange for Libya to call for the trial to be held in a neutral country?

Despite all of this, Libya submitted the question to the People's Basic Congresses (which has the power to take decisions) in their second session for 1992. Following detailed discussions, the People's Congresses adopted the following decision in relation to the extradition of the two suspects:

> "The Basic People's Congresses affirm their adherence to the Libyan Criminal Code and the Libyan code of Criminal Procedure. They raise no objection to the conduct of the investigation and the trial through the seven-member Committee established by the League of Arab States or through the United Nations before a just and impartial court to be agreed upon."

On this basis, my country declared its readiness to enter into negotiations, under the supervision of the Secretary-General of the United Nations, with the countries concerned, with a view to holding the trial in a neutral country which could be agreed upon by the parties to the dispute and which could provide all the necessary guarantees. The Secretary-General of the United Nations was notified of this step on 8 December 1992, but, like previous attempts, this one was rejected by the parties concerned. In its letter to the Secretary-General of the United Nations on 28 July 1993, my country confirmed that it was willing to discuss the procedures and arrangements relating to the trial of the two accused, with the mission the Secretary-General was about to send to Libya. It thus becomes clear that out of our desire to reach a reasonable solution and despite the fact that the 1971 Montreal Convention gives Libya the right to try the two suspects before Libyan courts - a question that is still pending before the International Court of Justice - the Libyan position has been

(Mr. Elhouderi, Libyan Arab Jamahiriya)

extremely flexible. On the other side, there is the rigid and intransigent position based on nothing more than the logic of force.

(Mr. Elhouderi, Libyan Arab Jamahiriya)

The extradition of the two accused was one of the demands made by the three countries. It was demanded also that Libya should take full responsibility for the acts of the two Libyan officials, submit all information it has on the crime and pay appropriate compensation. Do these demands conform to the principles included in various human-rights instruments? Could these two countries treat their own citizens in the same manner they want Libya to treat the Libyans? What logic and what legal system would call on a defendant to submit self-incriminating evidence, bear the responsibility for an allegation made against him and pay compensation, all before any investigation or trial had been undertaken? Then we are told that the sanctions will not be lifted unless the Libyan Arab Jamahiriya fully and effectively complies with these demands. This begs the question: who would decide that such effective and full compliance has taken place? The answer: no one other than the two countries themselves. There is no logic or legal process. It is clear that force, and force alone, is the logic and the process.

Added to this are the Draconian demands aimed at portraying Libya as a country that does not comply with Security Council resolutions and that violates international laws. Consequently, sanctions may be imposed and tightened against Libya. Notwithstanding the strange character of these demands, my country has shown extreme flexibility and has declared its readiness to pay proper compensation if it is proven responsible for this incident.

In its search for a satisfactory solution, the Libyan Arab Jamahiriya did not stop at invoking the law and calling for recourse to judicial authorities. It unilaterally resorted to the International Court of Justice, which is the principal judicial organ of the United Nations. It also talked to the

(Mr. Elhouderi, Libyan Arab Jamahiriya)

Secretary-General of the United Nations, confirming to him its full readiness to cooperate with him and asking that he play a bigger role in helping all the parties to find a reasonable and satisfactory solution.

Libya also contacted other countries and other organizations to which it belongs. All of them expressed their deep concern at the escalation of the crisis between Libya and the United States of America, the United Kingdom and France, as well as at the threat of the imposition of additional sanctions and the use of force in relations between countries. They called for a peaceful settlement of the crisis and appealed to the Security Council to review resolution 748 (1992) and, in recognition of Libya's initiatives aimed at settling the crisis, to lift the embargo imposed on Libya.

In this respect, I should like to recall the resolution adopted by the Council of Ministers of the Organization of African Unity (OAU) at its fifty-eighth ordinary session, which was held in Cairo. That resolution expresses appreciation for the efforts and initiatives taken by Libya in order to settle the crisis peacefully. The third operative paragraph of the resolution reads:

> "Expresses its grave concern at the escalation of the crisis and the threats of additional sanctions and the use of force as a pattern of relations among states, in violation of the Charters of the Organization of African Unity and the United Nations as well as international laws and norms". (A/48/322, annex I, p. 47)

In paragraph 5 of the same resolution, the OAU Council of Ministers urges the Security Council to reconsider its resolution and lift the embargo imposed on Libya, in recognition of the positive initiatives Libya has taken in handling the crisis.

(Mr. Elhouderi, Libyan Arab Jamahiriya)

Within the context of our efforts to address this problem, my country submitted to the Secretary-General, on 11 September 1993, a memorandum that contained points relating to its legal position vis-à-vis resolutions 731 (1992) and 748 (1992). In that memorandum, Libya asked questions based on the assumption that the two accused would challenge the charges levelled at them and voluntarily agree to stand trial before a foreign court. The memorandum also asked for clarifications and safeguards relating to the foreign country concerned. On 24 September 1993, my country received the Secretary-General's answers to the questions concerning the two accused.

Although we have not received all the answers, the Secretary-General was notified on 29 September 1993 that we had given the two suspects the answers to the questions about them. We confirmed to him that the safeguards he offered were sufficient and acceptable, and that the Libyan Arab Jamahiriya, following the receipt of those guarantees, would not object to the appearance of the two suspects before the Scottish judiciary and would even urge them to appear. We expressed to the Secretary-General our belief that only one step remained in order to resolve this crisis that has gone on for several years: the acceptance by the two suspects, their families and their attorneys of the necessity of appearing before the court. In those two letters, contained in document S/26523, we emphasized that we would deal with the French demands with the same determination with which we had been dealing with the American and British demands.

As the Council knows, the defence team, which includes legal counsellors of several different nationalities, including British and American attorneys, held several meetings in Tripoli on 8 and 9 October 1993. The two accused themselves attended some of those

(Mr. Elhouderi, Libyan Arab Jamahiriya)

meetings and confirmed their intention to appear before a fair court based on valid legal procedures and a comprehensive investigation, notwithstanding their right, under national and international law, to remain in Libya. The counsellors discussed the inalienable rights of any defendant: the right to a fair trial before an unbiased court, the right to be presumed innocent and the right to have sufficient time to prepare a defense after being notified of the charges and the evidence the prosecution intends to present in support of those charges. These are rights included in the legislation of all countries and contained in the International Covenant on Civil and Political Rights. All of us are parties to this Covenant, which entered into force on 23 March 1976.

The defence attorneys were deeply concerned over the possible prejudicial effect the publicity in the United States and Scotland would have on the prospective jurors and about the absence of the usual arrangements for extradition because of the prosecution's refusal to reveal the evidence it intends to use in the trial. The defence attorneys believe that this refusal greatly limits their ability to defend the case properly.

On the basis of a request made by the defence counsel, my country contacted Switzerland for permission to hold the trial there, and contacts between Libya and Switzerland are continuing to that end.

The negative impact of media publicity surrounding the case is not limited to prospective jurors but has also been extended to defence attorneys. We have witnessed a ferocious attack against an American lawyer when it was thought that he might participate in giving council to the two accused. Obstacles were also put in the way of another American lawyer who participated in the Tripoli

(Mr. Elhouderi, Libyan Arab Jamahiriya)

meeting of the defense counsellors. It thus becomes clear that the concerns of the defence attorneys are rational and justified.

(Mr. Elhouderi, Libyan Arab Jamahiriya)

The Secretary-General of the United Nations and members of the Security Council have been informed of the results of these meetings.

In addition, the Secretary of the General People's Committee for Foreign Liaison and International Cooperation - the Foreign Minister of Libya - during his stay in New York, conducted wide consultations involving most members of the Security Council and the Secretary-General of the United Nations. Our Foreign Minister explained the developments of the crisis and confirmed our determination to implement Security Council resolution 731 (1992).

All of this demonstrates that serious efforts are being made in relation to the trial of the two accused. It also proves that we are not procrastinating or marking time, as the two countries claim. Marking time is not in our interests, as it is our people who are suffering the adverse effects of the sanctions. We are interested in seeing this trial held as soon as possible. No one should forget that we received answers to some of our questions on 24 September 1993 and that the defence lawyers for the suspects met on 8 and 9 October 1993.

As for the French demands, the Libyan Arab Jamahiriya did not see in them anything that runs counter to the law. Intensive contacts and talks between the judicial authorities of both the Libyan Arab Jamahiriya and France were held with a view to reaching a determination of responsibility for the explosion of the aircraft on UTA flight 772. The Libyan and French investigative judges met several times, and the French judge saw the minutes of the investigation undertaken by the Libyan judge. It was agreed that the French judge would come to Libya to continue his investigation. Contacts between the two countries are already under way with a view to enabling the French judge to complete this endeavour. I

(Mr. Elhouderi, Libyan Arab Jamahiriya)

believe that had the French judge not chosen a military destroyer as a means of transport to Libya our response to the French demands would have led to encouraging results.

Only three months and a few days after the adoption of Security Council resolution 731 (1992), the three countries managed to get the Security Council to adopt its resolution 748 (1992), in which the question of terrorism was widely and artificially included. It contained an exceptional accusation, on which was based an unprecedented air and diplomatic embargo. All of this was done with unprecedented speed and decisiveness, and in violation of many provisions of the United Nations Charter.

It is obvious that the three countries succeeded in making the Council compress the whole phenomenon of international terrorism into the Lockerbie and UTA incidents. The Libyan Arab Jamahiriya has been linked intentionally with the phenomenon of international terrorism so that the three countries may be able to achieve their goals. If it is claimed that the Security Council wants to devote special attention to civil-aviation incidents, the Council should also have looked into the incidents involving the Korean, Iranian, Libyan and Cuban civil aircraft, to avoid appearing selective in its work or being accused of applying double standards.

However, let us look at the position of the Libyan Arab Jamahiriya on this matter. My country, which has endured terrorism in the recent past and still suffers today, declared, in a letter to the Secretary-General of the United Nations on 11 May 1992 (S/23918), its unequivocal condemnation of international terrorism in all its forms, regardless of its source. Libya confirmed that there are no terrorist training camps, terrorist organizations or terrorist groups on its soil. We called for the dispatch of a committee of the Security Council, the United Nations Secretariat

(Mr. Elhouderi, Libyan Arab Jamahiriya)

or any other competent United Nations body, to verify this at any time. My country also declared that it will never permit the direct or indirect use of its territory, citizens or institutions in the perpetration of any terrorist acts and that it is ready to punish severely those who are proved to have been involved in such acts.

The Libyan Ministry of Foreign Affairs issued a statement confirming the contents of this letter, and the statement was circulated as an official Security Council document (S/23917). My country reaffirmed its position in its letter dated 8 December 1992 (S/24961) to the Secretary-General. In a letter dated 28 July 1993 to the Secretary-General, Libya stated its readiness to receive a mission of the Secretary-General's choice to verify the non-existence of alleged terrorist training camps on its soil. In addition, my country actively cooperated with Britain in respect of that country's special requests.

However, none of this has been sufficient for the three countries, which have refused to send a mission to verify the non-existence of camps and other facilities. Thus they hope to keep the terrorism charge hanging over Libya like the sword of Damocles and to justify the continuation and intensification of the sanctions. They base their case on the pretext that Libya has not complied with Security Council resolutions, and they rely on an enigmatic phrase to the effect that Libya knows what is required of it.

What more can Libya do? What should Libya do to persuade the three countries to stop levelling such allegations and accusations? Will the three countries respond to Libya's request for a mission to verify that there is no basis for such allegations?

(Mr. Elhouderi, Libyan Arab Jamahiriya)

The sanctions, which have been imposed because of a legal dispute, into which the question of terrorism was deftly inserted have severely hurt our people in all aspects of their lives and have had a negative impact on our development plans. We have submitted to the Security Council 14 documents detailing the harm caused to various sectors. I shall not repeat the contents of those documents, but I should like to refer specifically to the adverse effects of the prohibition on the export to Libya of spare parts, engineering services and maintenance required for Libyan aircraft and their components. These adverse effects impact on a vital sector that is indispensable to a vast country that depends largely on air transport.

The United States of America and the United Kingdom are not satisfied with the sanctions contained in resolution 748 (1992). They have been trying, under the auspices of the Committee established by that resolution, to widen the scope of the sanctions, using transparent pretexts and rigid positions. This includes the success of the two countries in widening the scope of the sanctions through the Committee's rejection of cooperation between the International Atomic Anergy Agency and Libya for the establishment of a laboratory at the Centre for Agricultural Research in Tripoli to analyze the effects of agricultural insecticides on the health of human beings, animals and plants. It includes also the Committee's refusal, without explanation, of the humanitarian request concerning the transport of Libyan citizens to locations abroad - using Libyan aircraft - for medical treatment. These patients included cases of coma, quadruple paralysis, brain concussion resulting from traffic accidents and sudden health deterioration necessitating advanced medical treatment. One of them was a young girl of six, named Safaa Ali Abdel Rasoul, who

(Mr. Elhouderi, Libyan Arab Jamahiriya)

died at Tripoli Central Hospital as a result of complications arising from her illness.

In view of the Committee's abuse of its mandate, the competent authorities had to move other emergency cases, using various modes of conveyance, including land, sea and air transport. This resulted in patients' having to endure long, hard journeys, as is outlined in the memorandum sent to the Committee by the Libyan mission on 18 August 1993.

One of the Council's main reasons for the establishment of this Committee was to facilitate consideration of the requests submitted by countries for approval of flights for essential humanitarian purposes. The repeated refusal of requests for permission to move seriously ill persons - arbitrary refusals, with no reasons given to justify them - nullifies the resolution's only humanitarian gesture. Furthermore, these repeated refusals continue to severely harm innocent people. This can be neither the intention nor the objective of the United Nations. The three countries have not limited themselves to expanding the scope of the sanctions, but have extended this behaviour to include the Committee's methods of work, putting it on a consensus basis that runs counter to the provisions of the Charter and the Security Council's provisional rules of procedure.

(Mr. Elhouderi, Libyan Arab Jamahiriya)

Selection of the harshest sanctions, which are not commensurate with a legal dispute, attempts by the three countries to expand them, and to exert continuous pressure on the Security Council to impose yet more sanctions, prompt us to wonder about the real reasons behind this ferocious campaign against the Libyan Arab Jamahiriya. The three Governments, while closing every door that could lead to a solution to the crisis either in regard to the trial of the two accused or to the verification of the allegations that the Libyan Arab Jamahiriya supports international terrorism, declared, in their tripartite statement of 12 August 1993, that they had no "hidden agenda". The United States of America and the United Kingdom intentionally refused to answer Libya's specific questions related to international terrorism and the lifting of the sanctions. Even when one of the two countries hinted at the possibility of suspending or lifting the sanctions, the answers have been vague and conducive to suspicion rather than to confidence. The bottom line is that the whole issue remains the preserve of the two countries.

The draft resolution now before the Council, document S/26701, repeats the very same grave legal mistake of both resolutions 731 (1992) and 748 (1992) in that it links Libya to international terrorism on no other basis but the suspicions that have been created regarding two Libyan nationals on the basis of reports by intelligence agencies. This constitutes an a priori judgement that has not been substantiated by any evidence up to this point. They want the draft resolution to be adopted under Chapter VII of the Charter on a matter which should have been dealt with by the Council under Chapter VI, due to the fact that the issue in question is a legal dispute over which country has competence to

(Mr. Elhouderi, Libyan Arab Jamahiriya)

try the two accused, a dispute which is essentially settled by the provisions of the 1971 Montreal Convention.

This draft resolution has no justification whatsoever, especially since we are approaching the final phase in the settlement of the dispute. Moreover, it contains more unprecedented sanctions. It is an attempt to destroy the Libyan economy by adversely impacting on our people's only source of income, as well as on the civil aviation structure on which my country depends for transportation. The paragraphs of the draft resolution include provisions which prove beyond doubt that its sponsors do have a hidden agenda. Otherwise, what is the meaning of operative paragraph 4, which calls for depositing the financial revenues from the sale of oil and agricultural produce in separate bank accounts? And what is the meaning of operative paragraph 16 which refers to the suspension of sanctions and their reimposition within 90 days?

The sponsors of the draft resolution insist on ignoring the decisions of regional and other organizations on the matter and turn a deaf ear to their points of view by stating in operative paragraph 15 that all Member States should encourage Libya to respond fully and effectively to these requests. The States we refer to have already expressed their views in the resolutions adopted by the Arab Maghreb Union, the League of Arab States, the Organization of African Unity, the Organization of the Islamic Conference, and the Non-Aligned group. None the less, there is an insistence on ignoring all these decisions and resolutions. We would like to know the relationship between the maintenance of international peace and security and the contents of operative paragraphs 8, 11 and 12. Does this not constitute an interference in the minute internal affairs of States and does it not,

(Mr. Elhouderi, Libyan Arab Jamahiriya)

therefore, constitute an obstruction of justice in those States in addition to being an imposition of a strange kind of tutelage over them, all because of a dispute over the venue where two accused persons should stand trial? In operative paragraph 16 what then is the meaning of the phrase:

> "... the Libyan Government has ensured the appearance of those charged with the bombing of Pan Am 103 for trial before the appropriate United Kingdom or United States court ..."?

Once again we should like to draw attention to the dangers of involving the Security Council in the question of extradition, which is a sensitive and complicated legal issue that requires the conclusion of bilateral or multilateral agreements following negotiations between the States concerned. To involve the Council in questions such as these would set a dangerous precedent. The harm caused by this draft will not be limited to the Libyan people alone, but will extend to neighbouring and European countries whose interests are linked to ours. It will have adverse effects on the overall process of foreign investment. These harmful effects will undermine the security and stability of our region, which, at this time, is in dire need of security and stability.

The draft resolution constitutes a blatant violation of the provisions of the United Nations Charter and the norms of international law. Should it be adopted as it stands and in this manner, it will represent a dangerous turning point in the work of the Council, and constitute clear proof that the Council does not work on behalf of all the Members of the United Nations, but in accordance with the wishes of one or two countries.

The continuance and intensification of sanctions will not solve the problem. It will even complicate it. What we have here is a dispute that could have been easily resolved had the three

(Mr. Elhouderi, Libyan Arab Jamahiriya)

countries complied with the provisions of the 1971 Montreal Convention. Now we have two positions: the position of the Libyan Arab Jamahiriya, which is supported by law and the provisions of international conventions, and the position of the three countries, which is based only on their claims and allegations. While the position of the former is characterized by great flexibility, the position of the latter is rigid and intransigent, based only on allegations and undisclosed reasons linking Libya to the international terrorism phenomenon which has been under consideration by the United Nations for many, many years. As a result, the Security Council has been hastily pushed into action under Chapter VII instead of Chapter VI of the Charter, imposing harsh sanctions which are not commensurate with the dispute at hand.

We do not want to underestimate the seriousness of the two incidents which caused the loss of innocent lives, because we too have been burned by the fire of international terrorism, but we want to put things in the right context and perspective, using an objective approach and avoiding the use of exaggeration and excess as others do. We do not want to cover up anything related to the two accused or to procrastinate in order to waste time. We never disagreed as to the principle of the trial. The disagreement has been, and still is, on the venue of the trial. The two suspects and their attorneys do not disagree as to the principle of the trial, but want a place where neutrality and fairness can be guaranteed and where the proper procedures and arrangements for such a trial can be made. The Libyan Arab Jamahiriya will continue its sincere efforts to find a solution to this problem within the framework of respect for the principles of international law and the provisions of the relevant international instruments.

(Mr. Elhouderi, Libyan Arab Jamahiriya)

Furthermore, Libya considers that its efforts will achieve this end if the three countries abandon their policies of pressure and threats and respond to the language of dialogue and understanding which my country advocates and pursues. If the Security Council plays a positive role in a collective spirit, lifts the sanctions that only complicate this matter further, and assists the parties concerned to follow the right, peaceful path, it will have made an important contribution towards the achievement of that goal.

My country will continue to do its utmost to cooperate with the Secretary-General of the United Nations in order to reach a final solution of this problem.

The PRESIDENT: I thank the representative of the Libyan Arab Jamahiriya for his kind words addressed to me.

The next speaker is the representative of Egypt. I invite him to take a place at the Council table and to make his statement.

Mr. ELARABY (Egypt) (interpretation from Arabic): Allow me at the outset to extend to you, Sir, my congratulations on presiding over the Security Council for this month. I am confident that your great diplomatic skills and personal qualities, which are well known to all, will benefit the Council's work. I should also like to extend to your predecessor, Ambassador Sardenberg, our thanks for the skill with which he steered the Council's work last month.

Egypt has followed with great interest and concern the developments relating to the two criminal acts that resulted in the loss of hundreds of lives, namely Pan Am flight 103 over Lockerbie, and the bombing of UTA 772. There can be no doubt that safeguarding the safety and security of civil aviation are prerequisites of today's world. Egypt supports fully all international efforts designed to eradicate the destructive phenomenon of terrorism completely. Egypt has expressed its deep concern over the incidents and condoled with the families of the victims of those two incidents.

According to the provisions of international law, all who perpetrate such crimes must be identified and brought to justice. When the crime is proved, the penalty must follow, again according to the provisions and principles of international law. Equal rights and duties under the law and equal application of international law form the basis for the criteria upon which the contemporary international legal system rests.

The international community has condemned all acts of terrorism in all its forms on more than one occasion. The

(Mr. Elaraby, Egypt)

principal objective of the Council's adoption of resolutions 731 (1992) and 748 (1992) was to attempt to obtain the facts underlying those two incidents and to determine where the responsibility lies with regard to the terroristic acts against Pan American flight 103 and UTA flight 772.

My delegation, therefore, regrets that the truth and the facts with regard to those two acts have not yet been clarified and that no progress has been made in arriving at the truth clearly and unambiguously, despite the resolutions adopted by the Security Council and the unremitting efforts made by the United Nations Secretary-General, which my Government greatly appreciates, and in spite of the intensive bilateral contacts Egypt has made to find a suitable formula that would allow for implementation of the two resolutions.

Egypt has scrupulously abided by the resolutions adopted by the Security Council because we are fully convinced of the need to respect all resolutions adopted by the Council in line with the Charter. We call upon all the members of the international community to abide by that fundamental principle without exception and without resort to double standards when confronting the various issues with which the Security Council addresses.

Egypt, in the active role it has continued to play in attempting to contain the crisis arising from the Lockerbie incident and prevent the escalation of tension has never lost sight of any of the vital elements that might lead to a breakthrough in the situation, foremost among which is the opportunity for justice to take its course and for an unambiguous decision to be reached with regard to the responsibility of the perpetrators of such acts. At the same time, Egypt has sought to spare the region any further escalation of tension in a manner that would have deleterious effects on the interests of the fraternal people of Libya and on

(Mr. Elaraby, Egypt)

their aspirations after prosperity and development, in the first instance, and on the stability and prosperity of the peoples of neighbouring countries at a time when ever-greater hopes for peace, justice and stability in the region seem about to be realized after long years of struggle, tension and armed conflict.

The Security Council is to vote today on a draft resolution aimed at finding a solution to the problem created by the two incidents, the Lockerbie flight and UTA 772, by intensifying economic sanctions against Libya. Here, we have a question: Will the tightening of sanctions lead to the truth? Egypt would have preferred further efforts and further contacts in an attempt to implement the resolutions adopted by the Council, for the intensification of sanctions will surely have a negative impact on the innocent and not necessarily lead to the truth regarding those two incidents.

(Mr. Elaraby, Egypt)

For this reason, Egypt calls upon the Security Council to keep in sight all the consequences that will impact negatively on the people of Libya and on the neighbouring peoples of the region. Article 50 of the Charter stipulates that any State which finds itself confronted with special economic problems arising from the carrying out of enforcement measures against any State shall have the right to consult the Security Council. This means that the Council should today consider alleviating the economic suffering of Libya and of its neighbours that would arise from the adoption of the draft resolution under consideration.

Despite the expected adoption of the draft resolution on today's agenda, Egypt will continue to deploy its efforts, in cooperation with all the parties concerned, in order to reach as soon as possible a solution to this crisis that would safeguard the interests of all and provide for the full implementation of the Security Council's resolutions, which should be respected and implemented.

The PRESIDENT: I thank the representative of Egypt for his kind words addressed to me.

The next speaker is the representative of Sudan, who wishes to make a statement in his capacity as Chairman of the Group of Arab States for the month of November. I invite him to take a place at the Council table and to make his statement.

Mr. YASIN (Sudan) (interpretation from Arabic): I wish to thank you, Sir, and through you the members of the Security Council, for giving me the opportunity to speak, on behalf of the Sudan and the States members of the League of Arab States, on the important issue before the Council today. I seize this opportunity to congratulate you most sincerely on your accession to the presidency of the Security Council for this month, the work of which is replete with highly significant issues.

(Mr. Yasin, Sudan)

I also wish to congratulate your predecessor, Ambassador Sardenberg, the permanent representative of Brazil, who discharged his duties as President last month in an able and commendable manner.

The crisis between the Libyan Arab Jamahiriya on the one hand and the United States of America, France and the United Kingdom on the other, concerning the downing of Pan Am 103 and UTA 772, has been dealt with by the Council for three full years. This crisis figured prominently in the news media in a manner that qualifies it to be considered as one of the most important legal disputes between States both in terms of the principles involved and of its position within the framework of international law. It is also an important case in terms of the requirements of justice, such as the availability of evidence, neutrality and the removal of any extraneous factors that might affect the case and consequently the course of justice and, concomitantly, the nature of the verdict.

The Council is today dealing with an item that has become established on its agenda. This is an inescapable reality that must be addressed. However, this should be done in consonance with the spirit of the Charter and especially on the basis of Article 33 of Chapter VI of the Charter. It is relevant to point out here, from the outset, that we appreciate the fact that this dispute is legal in nature and belongs in the courts and institutions directly concerned, and not in the Security Council, which is not mandated by the Charter to exercise such a function. Now that the Council is seized of this matter, the matter has, of necessity, become a political dispute which we are uncertain as to whether it could be addressed properly in its correct context. Here we should think of similar conflict situations which could arise in the future and for dealing with which the international community should establish appropriate rules.

(Mr. Yasin, Sudan)

The entire international community has been saddened by these two tragedies. We condole with the families of the victims and we associate ourselves with those who condemn the perpetrators of these two hideous crimes. We also unconditionally condemn terrorism in all its aspects. In this context, let us review the course of events and positions since the Council first began its consideration of this case.

The Council adopted resolution 731 (1992), which imposed specific sanctions against the Libyan Arab Jamahiriya. It periodically reviews these sanctions, on the basis of cooperation or non-cooperation of the Libyan Arab Jamahiriya with the Council. It is curious that this resolution is based on Chapter VII of the Charter, which addresses situations of aggression that threaten international peace and security. This does not apply to the current dispute between Libya and the three aforementioned States which is a legal dispute that has to do with the extradition of two accused Libyan nationals. Such a dispute should be dealt with in a court of law, and specifically by the International Court of Justice. Alternatively, it should be addressed in conformity with Chapter VI of the Charter.

Having found itself caught up in these events, how did Libva respond? It responded comprehensively, with the aim of arriving at the truth concerning these two regrettable incidents. It called for a legal, objective and neutral investigation regarding the accusations levelled at its two Libyan nationals. It expressed its full willingness to accept the judgment of the International Court of Justice in the relevant case of competence now before the World Court. It declared itself ready to consider any other proposals made in conformity with the principles of law and Libyan sovereignty. It expressed its eagerness to respond to international efforts aimed at resolving the conflict through

(Mr. Yasin, Sudan)

negotiations mediation and legal settlement, in accordance with Article 33 of the United Nations Charter.

(Mr. Yasin, Sudan)

It expressly condemned terrorism and stated its willingness to cooperate with any party or with any international effort to eliminate that phenomenon.

It declared its willingness for the two accused Libyan nationals to surrender themselves voluntarily to the Secretary-General of the League of Arab States. It stated that in the meantime it would be willing to find a practicable way of implementing resolution 731 (1992) in the context of international law and justice and national sovereignty.

Libya also reaffirmed its commitment to implement the findings of the International Court of Justice and its acceptance of Security Council resolution 731 (1992) in all its aspects. It expressed its willingness to cooperate with the Secretary-General of the United Nations with respect to the legal aspects of the resolutions in question and with respect to conducting a neutral investigation or having recourse to a neutral court or international court. Moreover, Libya took steps to implement that undertaking; it called upon the United Nations to send a fact-finding mission and solemnly undertook to pay compensation in the event that it was found responsible for the incident.

It accepted all the demands calling for the trial of the two accused and undertook to do all it could in the event that they refused to place themselves before the court they are required to submit to, and that despite the objection of the defence counsel of the accused and despite the fact that that would not conform with national and international laws applicable in such cases.

As a regional forum, the Arab League Council includes the Arab States located in a sensitive area. By its mandate, it deals with all issues of importance to the States of the region. It

(Mr. Yasin, Sudan)

pronounces itself on those issues and on the aspirations of those States and is committed to acting in the interests of its members. The Arab League Council reacts to events in the region and expresses its views on them. The matter before the Security Council today directly concerns a State member of the League of Arab States.

In conformity with its responsibilities and its commitment to peace and security in the region, the Arab League Council has stated its increasing interest in this conflict and its willingness to provide its good offices and cooperate with the Secretary-General of the United Nations and the Security Council in resolving this deteriorating conflict.

In that context, the Arab League Council has formed a seven-member committee under the chairmanship of the Secretary-General of the League of Arab States; the members are the Foreign Ministers of Mauritania, Morocco, Algeria, Tunisia, Libya, Egypt and Syria. The committee was charged with following developments and making the necessary contacts; it was to spare no effort to stop the escalation of the crisis and find just and peaceful solutions in conformity with the rules of international law, justice and the relevant international treaties.

The Middle East stands at the threshold of new prospects. Everyone hopes to see the culmination of new steps to achieve a just, lasting and comprehensive peace; this demands self-restraint and the avoidance of any action that could escalate or multiply tensions. In dealing with the crisis, the League of Arab States was therefore careful to base itself on the United Nations Charter, which stipulates that all international disputes should be settled

(Mr. Yasin, Sudan)

by peaceful means and without endangering international peace and security, and especially on Article 52 of the Charter.

The seven-member League of Arab States committee has submitted its report to the Secretary-General of the League; this was approved by the Arab League Council at its one-hundredth session, held in September 1993 in Cairo. In its report the committee attached importance to the positive proposals included in Libya's memorandum dated 11 September 1992 addressed to the Secretary-General of the United Nations, which contained new elements that would help find a settlement through dialogue and negotiation. The committee voiced its concern at and its rejection of a policy of escalating threats and denials pursued by the three parties, and called for a response to the positive initiatives and efforts, including the important Libyan memorandum submitted to the Secretary-General.

The committee expressed its determination to continue its efforts and its contacts with the Secretary-General and the members of the Security Council with a view to preventing an escalation of the crisis and to fostering constructive, positive dialogue towards an appropriate settlement.

The committee charged the Secretary-General of the League of Arab States with intensifying his efforts and his contacts with all parties to the crisis and with the Secretary-General of the United Nations with a view to reaching a fair settlement based on the principles of international law and the need to safeguard Libyan sovereignty.

I have gone into such detail with a view to stressing the good intentions of the Libyan Arab Jamahiriya and the efforts of the League of Arab States and its Secretary-General,

(Mr. Yasin, Sudan)

Mr. Ahmed Esmat Abdel Meguid, and to underscore our sincere wish to resolve this conflict within the framework of law and the sovereignty of States. The Arab countries have always sought justice and equality in all their dealings, and have refrained from applying double standards in dealing with issues. The Non-Aligned Movement and regional groupings including the Organization of the Islamic Conference and the Organization of African Unity have expressed their concern with respect to the difficulties faced by the Libyan people as a result of the implementation of resolutions 731 (1992) of 21 January 1992 and 748 (1992). The people of Libya have been subjected to actions that have crippled its economic growth; these have assailed vulnerable groups such as children, the ill and the aged. They have deprived the Libyan Arab Jamahiriya of its legitimate right to contact the outside world by means of available communication channels; this has hurled it back to a time when communications were extremely difficult.

The impact of the siege has gone beyond the people of Libya to affect neighbouring countries with social and cultural links to that people. Article 50 of the Charter can be of only minimal help to those who are suffering as a result of the implementation of these resolutions.

All of this occurs as a result of the implementation of resolutions that appear to uphold the rules and to apply justice but that are not based on the legal justifications that are traditional for fairness.

(Mr. Yasin, Sudan)

The draft resolution before this distinguished gathering, in our opinion, is not the best way to end the dispute. It will lead to negative results: it could shake the confidence of the smaller countries in this Council's neutrality when dealing with controversial matters and because of overlapping competence of the mechanisms engaged in the settlement of international disputes, it could pave the way for international and regional conflicts through the prevention of action by the mechanisms that are closely related to the issues.

The invariable principles and rules of justice and public law are violated when an adversary is judge and jury and when the accused is not presumed innocent until proven guilty. The interpretation of legal texts and especially of the Charter is the duty and competence of the courts, and there is no way for any other body to arrogate that competence to itself except by force.

The mechanisms for the settlement of disputes and the preservation of international peace and security constantly can fall victim to the impact of negative information by the media. This leads to the absence of any guarantee for a fair trial that would guarantee for the accused the right to appear before a neutral court, to be presumed innocent until proven guilty as well as the right to thoroughly and sufficiently prepare their defence after being informed of the charges levelled at them and of the evidence presented by the prosecution.

We leave this meeting with a feeling of immense sorrow at the lack of a clear vision regarding an important issue such as this one, an issue which relates to the application of the norms of justice and to respect for the sovereignty and sacredness of the law and respect for the Charter which we have all accepted. The Charter is binding because it stands for reconciliation between

(Mr. Yasin, Sudan)

nations and is a voluntary contract between those who are parties to it. It is upheld and its provisions are enforced so long as it is used for the purposes it was formulated for.

The PRESIDENT: I thank the representative of the Sudan for his kind words addressed to me.

It is my understanding that the Council is ready to proceed to the vote on the draft resolution before it. Unless I hear no objection, I shall take it that that is the case.

There being no objection, it is so decided.

I therefore put to the vote the draft resolution in document S/26701.

A vote was taken by show of hands.

In favour: Brazil, Cape Verde, France, Hungary, Japan, New Zealand, Russian Federation, Spain, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela

Against: None

Abstaining: China, Djibouti, Morocco, Pakistan

The PRESIDENT: The result of the voting is as follows: 11 votes in favour, none against, and 4 abstentions. The draft resolution has been adopted as resolution 883 (1993).

In view of the lateness of the hour, I intend to suspend the meeting now. With the concurrence of the members of the Council, the meeting will resume at 3.30 this afternoon.

The meeting was suspended at 1.35 p.m. and resumed at 3.50 p.m.

The PRESIDENT: I shall now call on those members of the Council who wish to make statements following the vote.

Mrs. ALBRIGHT (United States of America): The resolution we have adopted today demonstrates for all to see that this Council is steadfast in its opposition to international terrorism. The journey to this resolution has not been easy. But the path of justice rarely is.

Citizens of 30 nations fell victim to the terrorist attacks that destroyed flights Pan Am 103 and UTA 772. Nearly two years ago, the Council adopted resolution 731 (1992). Put simply, the Libyan Government has refused to heed that resolution. Since then, Libya has spared no effort to break this Council's resolve. It has sought through intermediaries, surreptitious offers, and spurious promises to compromise the will of the international community - and to stave off today's action.

The Council can be proud that Libya's efforts to stop this resolution have failed. Terrorism is a challenge to every nation in the world. My Government, in response, is determined to pursue justice. And the pursuit of justice must, when necessary, include mandatory sanctions of the Security Council.

The fight against international terrorism must be a collective effort. In working with the Governments of the United Kingdom and France, the United States has led that effort. We have worked closely with every member of the Council. The resolution is balanced and precisely targeted. Its hallmarks are an assets freeze, a limited equipment embargo against the Libyan oil industry and the tightening of earlier sanctions imposed under resolution 748 (1992). To those who say it is not strong enough, I ask this: Why did Libya try so hard to stop this resolution if the sting of its new sanctions is so mild?

(Mrs. Albright, United States)

Libya knows what it must do to comply. We await the turnover of those indicted for the bombing of Pan Am 103. We await the Libyan Government's cooperation with the French judiciary. We await compensation for the victims of Libyan terrorism. And we await the Libyan Government's clear and confirmed renunciation of terrorism.

(Mrs. Albright, United States)

The United States has long imposed national sanctions against Libya that go far beyond those adopted by the Council. Still, the United States has committed itself to proceeding fairly and equitably in the process leading to our vote today. We have considered and respected the views of those countries whose economic interests at stake might exceed our own. This resolution is directed at Libya, and Libya alone. For each day that passes without the Libyan Government's compliance, the Libyan people will pay a greater price.

Let me emphasize a broader point. By strengthening sanctions today, the Security Council has again shown the flexibility of sanctions as a diplomatic tool; and the more we demonstrate that this Council can impose, lift, suspend or strengthen sanctions at will, the better the sanctions stick can serve our diplomacy.

The tragic attacks against Pan Am 103 and UTA 772 struck at innocent victims. Their families have awaited our response. Today the Council is responding. We must now await Libyan compliance, but we shall do so determined to persevere until justice is done.

Mr. MERIMEE (France) (interpretation from French): It is regrettable that today our Council has had to adopt a resolution tightening sanctions against Libya.

It is almost 20 months since the Security Council requested, in resolutions 731 (1992) and 748 (1992), that that State commit itself concretely and definitively to cease all forms of terrorism and all assistance to terrorist groups; that it hand over the two suspects in the attack on Pan Am 103; that it fully meet the requests of the French magistrate in charge of the investigation into the attack on UTA 772; and, finally, that it provide all the evidence and all the information available to it regarding these two crimes.

(Mr. Mérimée, France)

Our three Governments had thought they could expect a swift settlement of this very painful matter, thus making it possible for the families of the 441 victims of the attacks against the Pan Am and UTA flights to obtain justice at last.

My delegation would like to express its great appreciation to the Secretary-General, whose considerable efforts have been thwarted by the evident bad faith of the Libyan authorities. They have repeatedly made declarations of intent and have systematically been evasive when the time came to act.

In their desire to reach a successful outcome, my Government and the Governments of the United Kingdom and the United States, despite everything, decided to give that country a final chance to prove its good will by complying with its obligations before 1 October 1993. Unfortunately, the Libyan authorities have shown yet again that they only desire to play for time, and they continue their delaying tactics and their obstruction.

We consider that the Libyan Government has sought literally to take advantage of our Council. There is a clear contradiction between the letters dated 29 September and 1 October 1993 to the Secretary-General from Libya's Foreign Minister and Colonel Qaddafi's latest positions, which close the door to any solution. Libya may still hope to have it believed that it is prepared to do what the Security Council expects of it, but no one can be duped any longer.

It was essential to respond. That is why we calmly but resolutely consulted the other members of the Council about strengthening the sanctions.

We are now, much to our regret, caught up in the logic of escalation. My Government hopes that this reinforcement of the sanctions, albeit moderate, will make the authorities in Tripoli understand that the resolve of the international community and

(Mr. Mérimée, France)

the Security Council is unflagging and that they will not be satisfied by the indefinite continuation of the status quo.

The three sponsors of the resolution have been accused of having a hidden agenda against the Libyan regime. The text of the resolution that our Council has just adopted shows that that is not so, and it paves the way for a speedy solution. If the Libyan Government cooperates effectively with my country's judicial authorities in the UTA 772 case, and if it hands over to the competent courts the two suspects in the attack on Pan Am 103, the Council will immediately be able to adopt a resolution suspending the implementation of all the sanctions.

This is no empty offer. The entire mechanism set up by resolution 731 (1992), resolution 748 (1992) and today's resolution would cease to apply in those circumstances, and only a Security Council resolution would reactivate it, if necessary.

We hope, however, that after this first decisive step Libya will be anxious to achieve full reintegration into the international community. All it would have to do would be to comply with its other obligations. The report then submitted by the Secretary-General would allow the Security Council to take a decision on the formal and final lifting of the sanctions regime.

Finally, I express the hope that the Libyan authorities will heed our Council's message and will take the just measures expected of them by the families of the victims.

Sir David HANNAY (United Kingdom): It is now some 20 months since the adoption of Security Council resolution 748 (1992) and nearly five years since the destruction of Pan Am 103 over Lockerbie. The Libyan Government is still failing to comply with Security Council resolutions and to recognize the determination of the international community to fight international terrorism. That has left no alternative to further sanctions.

(Sir David Hannay, United Kingdom)

The objectives of the sponsors remain strictly limited. They are to secure justice for the victims of Pan Am 103 and UTA 772 and to ensure that such atrociities do not happen again. Central to these objectives is that tthe two men accused of the Lockerbie bombing should stand triall in Scotland or the United States and that the demands of Frenchh justice regarding the UTA case be met.

My Prime Minister and Foreign Secretary have repeatedly given assurances that if the twoo Lockerbie suspects went to Scotland they would receive a fair triall, with the full protection afforded by Scottish legal procedures.. I now reiterate those assurances. My Ministers have also made iit clear that we are pursuing no hidden agenda. Our agenda is seet out in Security Council resolutions 731 (1992), 748 (1992) annd the present resolution - no more and no less.

The new resolution addopts a carefully balanced approach. Thus, in addition to the stick of further sanctions, there is also a carrot: if the Secretaary-General reports to the Council that the Libyan Government has enssured the appearance of those charged with the Lockerbie bombing beffore the appropriate United States or Scottish court and has saatisfied the French judicial authorities with respect to the bombiing of UTA 772, then the Security Council will review the sanctionss with a view to suspending them immediately. We see thiss suspension of sanctions as a preliminary to their being lifted immmediately Libya has complied fully with resolutions 731 (1992) annd 748 (1992). This new element, which was not present in resolutionn 748 (1992), is designed to make it clear that sanctions are not inntended to punish; they are intended to bring Libya to compliancee, and no more than that.

The resolution contaains a grace period before the sanctions come into effect. Theree has already, in our view, been too much

(Sir David Hannay, United Kingdom)

delay and prevarication by the Government of Libya. But, since our sole aim is to resolve this issue, and not to impose sanctions for the sake of sanctions, we have agreed to the grace period. We hope Libya will take advantage of this extra time to hand over the two Lockerbie suspects and satisfy the demands of French justice. Then the new sanctions would never need to go into effect and the existing ones could be suspended.

We are particularly grateful to members of the Council, to the Secretary-General and to a number of other Members of the United Nations for supporting these resolutions and for seeking to persuade the Libyan Government to comply with them. We hope they will continue their efforts. It is important not only to secure justice for the victims of Pan Am 103 and UTA 772, but also to send a clear message to current and would-be terrorists and sponsors of terrorism: terrorism is a blight that the international community will neither condone nor tolerate, and it is not cost-free.

Mr. SARDENBERG (Brazil): The action taken today by the Security Council involves determination of the existence of a threat to international peace and security as a result of two incidents of the utmost gravity, as it involves a number of legal questions that have been the subject of controversial debate within and outside this Council.

The terrorist attacks against Pan Am flight 103 on 21 December 1988, which caused the deaths of 270 people, and against UTA flight 772 on 19 September 1989, in which 171 people were killed, caused the deepest outrage and sadness in Brazil. Those abominable, senseless, criminal acts have received the strongest moral and political condemnation. And it could not have been otherwise.

Indeed, such crimes call for resolute and effective action so that the persons responsible for them may be appropriately prosecuted and punished. This demand for justice is not only that of the families and friends of the victims of those crimes; it is widely shared by the whole international community and is very much the wholehearted sentiment of the Brazilian Government.

Brazil's support for the resolution that has just been adopted is an expression, in specific and clearly exceptional circumstances, of our unswerving commitment to international cooperation to eradicate the scourge of international terrorism. That is, in our assessment, the political thrust of this resolution, and that is what has received our support.

It is our view that all resolutions of the Security Council must be complied with. Resolutions 731 (1992) and 748 (1992) - both adopted at a time when Brazil was not a member of the Security Council - are no different. The fact that those resolutions deal

(Mr. Sardenberg, Brazil)

with a uniquely serious and complex case of international terrorism makes it all the more important and urgent for this Council to enforce compliance with its previous decisions on the matter. The resolution now adopted is directly linked to those previous decisions, whose implementation it is intended to promote.

It is also our view that the strong measures of sanction that this Council is empowered to impose under Chapter VII of the Charter constitute a last resort, to be used only in exceptionally grave circumstances that involve a clear and direct threat to international peace and security. It was thus only after carefully pondering the extremely serious nature of the case before us, as well as the negative consequences that would ensue should the Council be unable to act, that we decided to cast a positive vote on this resolution.

Having explained the reasons for our political support for the resolution, I wish to stress that our positive vote was cast without prejudice to our position on various aspects of a legal nature that are involved in the actions taken by the Council in relation to this case. In this connection, I wish to place several points on record.

It is our considered view that efforts to combat and prevent acts of international terrorism must be based on strong and effective international cooperation on the basis of the relevant principles of international law and the existing international Conventions relating to the various aspects of the problem of international terrorism. The basic imperative in the prevention of terrorist acts of an international nature - as expressed, for example, in resolution 44/29 of the United Nations General Assembly - is that States must invariably fulfil their obligations

(Mr. Sardenberg, Brazil)

under international law and take effective and resolute measures to prevent such acts, in particular by ensuring the apprehension and prosecution or extradition of the perpetrators of terrorist acts.

The need to strengthen international cooperation in accordance with those principles remains unchanged. As provided for in Article 24 (2) of the Charter, the Security Council is bound to discharge its responsibilities in accordance with the purposes and principles of the United Nations. That means also that decisions taken by the Council, including decisions under Chapter VII, have to be construed in the light of those purposes and principles, which, inter alia, require respect for the principles of justice and international law.

As was noted by some delegations in statements made in this Council on 21 January 1992, upon the adoption of resolution 731 (1992), the exceptional circumstances on which this case is based make it clear that the action taken by the Council seeks to address a specific political situation and is clearly not intended to establish any legal precedent - especially not a precedent that would question the validity of time-honoured rules and principles of international law or the appropriateness of different domestic legislations with respect to the prevention and elimination of international terrorism.

We are convinced that the imposition of sanctions must always be linked to the performance of limited, concrete and very specific acts that are made mandatory by decisions of the Security Council. Such acts must be specifically set out by the Council so that the State on which sanctions are imposed may be able to know in advance, and beyond all doubt, that the sanctions will be lifted as soon as those specific requirements are met. This was the view we expressed, in connection with operative paragraph 16 of the

(Mr. Sardenberg, Brazil)

resolution, in the consultations undertaken by the sponsors, and it is the view we shall take when it comes to the practical application of that paragraph.

Since this is the first time Brazil is addressing this question in a formal meeting of the Security Council, we believe we should refer to our position in relation to the results of the investigations that provide the basis for the requests referred to in resolutions 731 (1992) and 748 (1992), as well as in the resolution we have just adopted. The Brazilian Government has studied carefully the documents submitted to the Security Council by the States that have conducted those investigations. As the Security Council cannot pass judgement on the merits of a criminal case, we understand that the action taken by the Council is aimed exclusively at addressing a political problem involving a threat to international peace and security. It cannot be construed in a manner inconsistent with the presumption of innocence.

We note that operative paragraphs 3, 5 and 6 of the resolution set forth decisions requiring measures by States to prohibit certain acts by their nationals or from their territory. It is the understanding of the Brazilian Government that the words "their nationals", in that context, are to be interpreted as meaning persons under their jurisdiction. It is clear that the decisions set out in those paragraphs do not require or authorize States to take any measures beyond their respective jurisdictions.

We understand that the initiatives that Members States are called upon to take to encourage the Libyan Government to respond effectively to Council resolutions, as expressed in operative paragraph 15, are initiatives such as those that have been carried out by States so far, in the manner of good offices, to facilitate

(Mr. Sardenberg, Brazil)

talks and diplomatic contacts leading to a peaceful solution of this problem.

I also wish to indicate that my delegation is fully aware of the need to address the consequences that may arise for third countries from the measures provided for in this resolution should the sanctions come into force. We therefore attach great importance to operative paragraph 10 of the resolution, which entrusts to the Committee established by resolution 748 (1992) the task of examining possible requests for assistance under Article 50 of the Charter. As a member of the Security Council and of that Committee, Brazil will be attentive to this problem and will be ready to work with other delegations to seek effective ways of dealing with this problem.

The question of ways and means of giving effect to the provisions of Article 50 goes well beyond this particular case. As there is an increasing number of cases in which sanctions are applied, there is also a proportionate need to examine ways in which the United Nations can ensure more effective application of Article 50.

Brazil voted in favour of this resolution in the hope that it will not be necessary for the sanctions to come into force. It is indeed our hope that the period between now and 1 December, when the new sanctions are to come into effect, will be profitably utilized by the States involved - in particular, by Libya - to achieve an early negotiated solution in full conformity with Security Council resolutions. We encourage the Secretary-General to continue his efforts to facilitate such a solution.

Mr. LI Zhaoxing (China) (interpretation from Chinese): Peace is the common aspiration of people all over the world, and terrorist activities in any form are a great threat to people's peaceful lives. Since the tragic crashing of the Pan Am 103 and UTA 772 flights, the Chinese Government has on many occasions strongly condemned these terrorist acts and expressed its profound sympathy to the bereaved families and the victim countries. We have always held that comprehensive, fair and objective investigations should be conducted and that convicted criminals should be duly punished in accordance with the principles and provisions of the United Nations Charter and relevant international conventions.

(Mr. Li Zhoaxing, China)

The disputes between States, no matter how complicated they are, should be settled peacefully by diplomatic and political means. We are opposed to the indiscriminate imposition of sanctions on a country in the name of the United Nations. We made our position clear, when resolution 748 (1992) was adopted by the Council, that in principle China was not in favour of imposing sanctions on Libya. Under the current changing circumstances we are still not in favour of maintaining, let alone intensifying, sanctions against Libya. In our view, the only effective means that can lead to a solution of this question is negotiation and consultation. To intensify sanctions against Libya will not help to settle the question; on the contrary, it may further complicate the matter, make the Libyan people suffer more, and create even greater economic difficulties for the neighbouring and other countries concerned. Therefore, the Chinese delegation was unable to support the resolution adopted by the Council today.

Recently, the Libyan side has shown certain flexibility and is willing to encourage the suspects to appear before the Scottish courts. It has also expressed its intention to negotiate with the parties concerned to settle some specific issues. This positive gesture demonstrates that as long as the parties concerned show sincerity and are able to negotiate in a calm manner there will always be hope for a peaceful solution to the dispute.

Organizations such as the Organization of African Unity, the League of Arab States and the Movement of Non-Aligned Countries have also expressed their willingness to contribute to the settlement of the crisis that resulted from the above-mentioned air crashes, and they have already made unremitting efforts and achieved certain results. Therefore, more time should be given for their continuing efforts. We believe that these organizations,

(Mr. Li Zhoaxing, China)

with their more frequent contacts and exchanges with the party concerned, are in a better position to promote the settlement of this question and will be able to play a more positive role.

In order to bring an end to the crisis and ease the tension, the Secretary-General has overcome many difficulties and has been tireless in his mediating efforts. These efforts should also continue so as to help the parties concerned remove their differences and settle the remaining issues at an early date.

At the present stage, while recognizing the difficulties we are facing in solving the problems, we should also be aware of the existing opportunities. As long as we allow sufficient time for diplomatic efforts and have enough patience there is hope for a compromise acceptable to all, thus avoiding the imposition of upgraded sanctions and their adverse consequences. We therefore strongly urge the parties concerned to adopt an attitude of flexibility and compromise in order to create the necessary conditions for a final settlement.

Mr. VORONTSOV (Russian Federation) (interpretation from Russian): The Russian delegation supported the draft resolution adopted by the Council, which was sponsored by the United Kingdom, the United States and France, since it fully concurs with its reiteration of the resolve of the Security Council to eradicate international terrorism.

In combating this evil, which has become the real blight or leprosy of the twentieth century, there can be no vacillation. Combating international terrorism and violence is for us a key tenet deriving, not only from the moral underpinnings of the policy of a new Russia, but unfortunately from the realities of the contemporary world. We are therefore anxious to work and to cooperate with the world community in putting an end to acts of

(Mr. Vorontsov, Russian Federation)

international terrorism which, as appropriately emphasized in the resolution just adopted, is essential for the maintenance of international peace and security.

We are deeply convinced that Security Council resolutions 731 (1992) and 748 (1992), adopted with a view to bringing to justice those accused of planting an explosive device on board Pan Am flight 103 and UTA flight 772, must be implemented. The suspects must be brought to trial, and until that happens the sanctions mechanism should continue in effect.

As far as the nature of the sanctions is concerned, the Russian Federation attaches particular importance to that provision in the resolution which affirms:

> "... that nothing in this resolution affects Libya's duty scrupulously to adhere to all of its obligations concerning servicing and repayment of its foreign debt;" (resolution 883 (1993), para. 11)

We believe that this is an extremely important provision, the purpose of which is to ensure that as a result of the additional sanctions imposed on Libya, the interests of other States would be harmed as little as possible.

We hope that Tripoli will treat the resolution we have adopted with all due seriousness, will draw the necessary conclusions, and shortly - it has until 1 December - take steps to comply with the legitimate demands of the Security Council. That will, initially, make it possible immediately to suspend the sanctions and then to consider the question of lifting them completely. It is our belief that that is in the interests of both Libya and the entire international community.

Mr. YAÑEZ BARNUEVO (Spain) (interpretation from Spanish): The Security Council has just adopted a resolution which we had hoped would not have become necessary. Unfortunately, a year and a half after their adoption, resolutions 731 (1992) and 748 (1992) have still not been properly complied with. Despite the determined efforts of the Secretary-General, to whom we wish to express our special appreciation, and the efforts of States and organizations, particularly the League of Arab States, which are interested in a speedy solution of the crisis, we must note that Libya has not fully complied with the demands set forth in Security Council resolutions 731 (1992) and 748 (1992).

In those circumstances, the adoption of a new resolution was inevitable. First, it is necessary to ensure respect for the obligation imposed by the United Nations Charter on all Member States to comply with decisions of the Security Council. Secondly, the events that led to resolutions 731 (1992) and 748 (1992) are particularly serious. The attacks against commercial flights of Pan Am and UTA are horrendous crimes, which caused numerous innocent victims, and their presumed perpetrators must be brought to justice.

As the representative of Brazil has pointed out, the Security Council is taking action in order to deal with a decision that affects international peace and security, without prejudice to the principle of the presumption of innocence as regards the persons concerned. These are the reasons that prompted my delegation to vote in favour of resolution 883 (1993), which has just been adopted by the Council. This resolution, though as firm and vigorous as is necessary to attain its objective - namely to ensure compliance with the Council's requirements - nevertheless contains an element of flexibility providing an appropriate way out of the

(Mr. Yañez Barnuevo, Spain)

crisis if there is sufficient will on the part of the Libyan authorities to do so.

It is true that through this resolution new sanctions are imposed upon Libya, but it is also true that mechanisms are provided to suspend them and also to lift all the sanctions established immediately, once there is compliance with the requirements of the Council. Moreover, a time period is established which would make it possible to avoid the entry into force of the new measures if Libya fulfils its obligations by 1 December next.

(Mr. Yañez Barnuevo, Spain)

We would now encourage the Secretary-General to redouble his efforts, which were so close to bearing fruit, until it does so. We also encourage the States and organizations that can contribute to finding a solution to the crisis to lend the Secretary-General their cooperation.

At the same time, we would urge the Libyan Government to pursue the course set forth in its letters of 29 September and 1 October 1993. We were encouraged by the assurance given the Council today by the Permanent Representative of Libya that his Government will continue to cooperate with the Secretary-General in seeking a definitive solution to the problem.

To that end, the Libyan authorities must comply with the provisions of paragraph 16 of resolution 883 (1993), just adopted, and in particular must do everything necessary to ensure that the two persons charged with the bombing of Pan Am flight 103 do indeed appear before the Scottish courts, as well as to satisfy the requests of French judicial authorities with respect to the bombing of UTA flight 772.

In the unfortunate event that that does not take place by 1 December and the new measures therefore enter into force, the Council undertakes in the resolution just adopted to consider the economic problems that may confront States particularly affected by the implementation of those measures. Similarly, under the resolution the Council instructs the Committee established by resolution 748 (1992) to examine possible requests for assistance that may be submitted by such States under the provisions of Article 50 of the Charter and to make recommendations to the President of the Security Council for appropriate action. The Council thus continues a practice followed in other cases in which

(Mr. Yañez Barnuevo, Spain)

enforcement measures were adopted that could have a negative effect on the economies of Member States, a practice that will undoubtedly facilitate cooperation by those States in implementing such measures and that my country wholeheartedly supports.

Spain sincerely hopes that we will not reach that point. We hope that Libya will comply with the Council's requirements, thereby resolving a crisis that is causing considerable harm not only to the Libyan people but to other peoples, including my own, in the Mediterranean region, which is not exempt from problems that need to be approached through international cooperation in a North-South context. Some very hopeful initiatives that have been launched in recent years have been affected by this crisis. We would hope that the situation will be resolved as soon as possible for the sake of the full development of that much-needed cooperation between the two shores of the Mediterranean for the benefit of their peoples and of the international community.

Mr. ERDÖS (Hungary) (interpretation from French): Hungary vigorously and unreservedly condemns all forms of international terrorism. We are deeply convinced that the international community must do everything, within the framework of global and regional cooperation, to combat and eradicate that serious phenomenon, which knows no borders. This position of principle determines Hungary's attitude towards the problem with which we are dealing today: the terrorist acts perpetrated against the Pan Am and UTA flights. We regret that, because of delaying tactics and unkept promises and the growing gap between verbal statements and concrete actions, this item is still on the Council's agenda. We regret that for the third time the Council has had to meet to review the situation. The reason for this is Libya's failure, despite persistent efforts by the Secretary-

(Mr. Erdös, Hungary)

General, the countries members of the Arab League, and other States concerned, to comply with Security Council resolutions 731 (1992) and 748 (1992), adopted, respectively, in January and March last year.

It is clear that the Council had no choice but to adopt new measures to ensure respect for its two earlier resolutions. At the same time, as in other similar cases, we cannot conceal our regret that we have had to have recourse to Chapter VII of the Charter to tighten the sanctions imposed on a Member State of the Organization, particularly since that State is a country with which Hungary has long had mutually advantageous economic cooperation.

We would hope that the Libyan Government will make use of the period between now and 1 December, the date on which the resolution we have just adopted will enter into force, to comply with the relevant Security Council resolutions, which might make it unnecessary to implement today's resolution. We should also like to draw attention to paragraph 16 of the resolution, under which the Council expresses its readiness to review the sanction measures with a view to suspending and, possibly, lifting them. We are confident that Libya will make use of all available possibilities to extricate itself from the present situation and thereby enable the Security Council to determine that the circumstances that caused the imposition of such measures against that country have ceased to exist.

In that spirit, and for those reasons, Hungary decided to vote in favour of resolution 883 (1993), in the hope that the day is not too far off when it will be possible to restore normal relations with Libya in every sphere.

Mr. TAYLHARDAT (Venezuela) (interpretation from Spanish): Venezuela condemns terrorism in all its forms, regardless of its sponsors or the causes that are alleged to justify it, be they political, economic, social, religious or of any other kind. That is a position my country has consistently upheld in all international forums.

Accordingly, we have supported international measures and initiatives aimed at combating and eradicating that hateful form of struggle. Terrorism is a cowardly act, one that cloaks itself in anonymity, sacrifices human life and wreaks destruction to achieve its goals, with total contempt for the most basic individual rights.

As is pointed out in General Assembly resolution 44/29, acts of international terrorism not only result in irreparable loss of human life and in material damage but also have a deleterious effect on international relations because of the harm they do to international peace and security. This is reflected in the resolution we have just adopted, which has its roots in deplorable acts of terrorism whose scope has led the international community, represented in the Security Council, to adopt measures to ensure that those charged with such abominable actions are brought to justice and punished to the full extent of the law.

My delegation would have preferred that the situation referred to in the resolution just adopted be resolved without the need to resort to the application of such severe measures as those set forth in it.

Venezuela was heartened when, as noted in the seventh preambular paragraph of resolution 883 (1993), the Government of Libya stated its intention to encourage those charged with the bombing of Pan Am flight 103 to appear for trial and its willingness to cooperate with the French authorities in elucidating the case of the bombing of UTA flight 772.

(Mr. Taylhardat, Venezuela)

Unfortunately, those charged did not appear. This fact, together with the lack of a full and effective response to the requests and decisions contained in Security Council resolutions 731 (1992) and 748 (1992), has led the Council to adopt today's resolution, which provides for new and more drastic measures. The purpose of these measures is to demonstrate the international community's firm resolve to punish those guilty of committing acts of terrorism.

In voting in favour of resolution 883 (1993), my delegation hopes and trusts that the alleged perpetrators of these acts will appear before the competent court before the expiration of the deadline set for the entry into force of the measures provided for in the resolution.

We appeal to all the parties involved in this problem to continue to demonstrate the spirit of compromise they have shown so far in the quest for a solution in harmony with the spirit and purpose of the various resolutions adopted by the Council on this subject.

In conclusion, we express to the Secretary-General our gratitude for the important role he has played in regard to this problem. We believe that he has not yet exhausted all his possibilities for action and we trust that he will continue to exert efforts to secure the cooperation of the Libyan Arab Jamahiriya in the quest for a solution that will render unnecessary the implementation of the measures provided for in this resolution and lead to the lifting of the measures imposed by previous resolutions of the Council.

Mr. MARUYAMA (Japan): Since last year, many Governments and organizations, including the League of Arab States, as well as the Secretary-General of the United Nations, have been trying to

(Mr. Maruyama, Japan)

gain the cooperation of Libya in an effort to clarify the facts surrounding the downing of Pan Am flight 103 and UTA flight 772, among whose victims was a Japanese national.

Japan, which is strongly opposed to terrorism in all its forms, has appealed repeatedly to the Libyan Government to comply with Security Council resolutions 731 (1992) and 748 (1992). It is indeed regrettable that, despite such endeavours, Libya has failed to comply with the Security Council's requirements and has continuously tried to avoid its international obligations through equivocation and delay.

Last year, at the time that resolutions 731 (1992) and 748 (1992) were adopted, it was understood that the Security Council would be compelled to take further measures if Libya did not comply with them. Now, unfortunately, the Council has had no choice but to adopt further measures to gain Libya's compliance.

Japan urges the Libyan Government to comply fully with the relevant Security Council resolutions without further delay. It is in the hope of gaining this compliance that my delegation supported the adoption of this new resolution. In the meantime, Japan remains committed to efforts to find a solution to this difficult situation and, indeed, to eliminate all forms of international terrorism.

Mr. MARKER (Pakistan): Pakistan has consistently and vigourously condemned terrorism in all its forms and manifestations. This includes the abominable acts perpetrated against Pan Am flight 103 and UTA flight 772.

Pakistan has always also upheld the sanctity of the resolutions of the General Assembly and the Security Council and has consistently supported complete and faithful adherence to them.

(Mr. Marker, Pakistan)

We have therefore scrupulously abided by the terms of Security Council resolution 748 (1992).

We regret that the sincere and dedicated efforts that were undertaken by the Secretary-General of the United Nations and a number of well-intentioned Governments to find an amicable solution to the problem of meeting the requirements of Security Council resolution 731 (1992) appear to have been unsuccessful. However, we have not lost hope and feel that these endeavours should continue.

The PRESIDENT: There are no further names on the list of speakers. The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

The meeting rose at 4.45 p.m.